



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Roles and Responsibilities of Council Members

MEETING DATE: July 30, 2003

PREPARED BY: City Manager

RECOMMENDED ACTION: That the City Council discuss the roles and responsibilities of Council Members. The League of California Cities has recommended a facilitator to assist the City Council in this discussion.

BACKGROUND INFORMATION: This item appears on the agenda at the request of Council Member Beckman.

The City Manager's Office contacted the League of California Cities to identify a person who could make a presentation to the City Council on the "roles and responsibilities" of the City Council at the Special meeting scheduled for July 30th. There were five people recommended, all were contacted and only Mr. Tony Manzanetti could attend the meeting on such short notice. The other candidates were either going on vacation or otherwise engaged that day. However, Mr. Manzanetti was highly recommended and will be able to attend.

With such short notice to find a speaker, staff was not able to interview Mr. Manzanetti prior to making a selection. Accordingly, we have very little background on him at this time except for the recommendation of the League of California Cities.

Staff has also attached a pamphlet from the League of California Cities titled: "Mayors and Council Members Resource Guide", distributed January 8, 2003 at the conference in Sacramento for new Council Members. This pamphlet should be helpful in preparing for the meeting on August 6th. Also attached is the City Ordinance setting out the responsibilities for the City Manager.

Funding: \$2,000 from General Fund

Respectfully submitted,

H. Dixon Flynn
City Manager

Attachments

APPROVED: _____

H. Dixon Flynn -- City Manager

2.08.030

2.08.030 Increase or decrease.

Following any new and later estimate of population made by the Department of Finance placing the city in a population group other than that set forth in Section 2.08.020, the salary payable under this chapter to each member of the council shall be increased or decreased accordingly to equal the sum prescribed for that population group in Section 36516 of the Government Code, as added by Chapter 286 of the Statutes of 1965; provided, however, that the salary as so increased or decreased shall become payable only on and after the date upon which one or more members of the council become eligible therefor by virtue of beginning a new term of office following the next succeeding general municipal election held in the city. (Ord. 1333 § 1(1), 1984; prior code § 2-84)

2.08.040 Expense reimbursement separate.

The salaries prescribed in this chapter are and shall be exclusive of any amounts payable to each member of the council as reimbursement for actual and necessary expenses incurred by him in the performance of official duties for the city. (Prior code § 2-85)

2.08.050 Operative date.

This chapter shall become operative only on and after the date upon which one or more members of the council become eligible for the salary prescribed in this chapter by virtue of beginning a new term of office following the general municipal election next succeeding its effective date. (Prior code § 2-86)

Chapter 2.12

CITY MANAGER

Sections:

- 2.12.010 Office established—
Appointment—
Qualifications.**
- 2.12.020 Eligibility of
councilmen.**
- 2.12.030 Absence or disability.**
- 2.12.040 Bond.**
- 2.12.050 Removal.**
- 2.12.060 Powers and duties
generally.**
- 2.12.070 Council to deal
exclusively through city
manager.**
- 2.12.080 Compensation.**
- 2.12.090 Approval of claims and
demands.**
- 2.12.100 Subordinate
appointment or
removal.**
- 2.12.110 Legislative powers of
council—Library
jurisdiction.**
- 2.12.120 Disposition of surplus
personal property.**

**2.12.010 Office established—
Appointment—
Qualifications.**

The office of city manager is established. The city manager shall be appointed by the city council solely on the basis of his executive and administrative qualifications. (Prior code § 2-20)

2.12.020 Eligibility of councilmen.

No person elected to membership on the city council shall, subsequent to such election, be eligible for appointment as city manager until one year has elapsed after he has ceased to be a member of the council.
(Prior code § 2-21)

2.12.030 Absence or disability.

During the absence or disability of the city manager, the council may designate some properly qualified person to perform the duties of the office of city manager.
(Prior code § 2-22)

2.12.040 Bond.

The city manager shall furnish a surety company bond to be approved by the

council in such sum as may be determined by the city council. (Prior code § 2-23)

2.12.050 Removal.

The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. At least thirty days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reason for his removal. The manager may reply in writing within ten days after receipt of notice of such preliminary resolution, and may request a public hearing which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one is requested, and after full consideration, the council by a majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his monthly salary shall continue to be paid following adoption of the preliminary resolution until he is reinstated or removed. In event of removal, the city council shall appoint a new city manager within a reasonable time thereafter and must exercise due diligence in naming a successor. (Prior code § 2-24)

2.12.060 Powers and duties generally.

The city manager shall be the administrative head of the city government under the direction and control of the council, except as otherwise provided by this code or other ordinance of the city. He shall be responsible to the city council for the efficient administration of all the affairs of the city

which are under his control. In addition to the city manager's general powers as administrative head, and not as a limitation thereon, it is his duty and he shall have power:

A. Enforcement of laws: To see that all laws and ordinances are duly enforced;

B. Appointment, removal, etc., of certain officers: To employ, discipline or remove all heads of departments and all subordinate officers and employees of the city; to transfer employees from one department to another; and to consolidate or combine offices, positions, departments or units under his jurisdiction. Nothing contained in this subsection shall apply, however, to the city attorney, city clerk or city treasurer, each of whom shall be appointed and removed by the city council;

C. Control over departments and appointive officers: To exercise control over all departments and divisions of the city government and over all appointive officers and employees thereof except as provided in this section;

D. Attendance at council meetings: To attend all meetings of the council and its committees unless excused therefrom by the council or by the committee and except when his removal is under consideration by the council;

E. Recommend ordinances: To recommend to the council for adoption such measures and ordinances as he deems necessary or expedient;

F. Advice as to finances: To keep the city council at all times advised as to the financial conditions and needs of the city, and at least quarterly shall submit a financial report;

G. Preparation of budget: To prepare the budget annually and submit it to the council

and be responsible for its administration after adoption;

H. Annual report: To prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;

I. Salary plan: To prepare and recommend to the city council a salary plan;

J. Purchasing: To purchase all supplies for all of the departments or divisions thereof, and no expenditure shall be submitted or recommended to the city council except upon report or approval of the city manager;

K. Investigation of city affairs: To make investigations into the affairs of the city or any department or division thereof or any contract, or the proper performance of any obligation running to the city;

L. Investigation of complaints: To investigate all complaints in relation to all matters concerning the administration of the government of the city and in regard to the service maintained by public utilities in the city, and to see that all franchises, permits and privileges granted by the city are faithfully observed;

M. Supervision of public buildings, parks, etc.: To exercise general supervision over all public buildings, public parks, streets and other public property which are under the control and jurisdiction of the city council;

N. Organizational chart: To prepare and submit to the city council an organization chart showing the organization plan for all departments of the city government;

O. Issue licenses and permits: To issue on behalf of the council all licenses and permits not otherwise provided for by ordinance;

P. Public works construction: To superintend the construction of all public work done by the city;

Q. Devotion of entire time to duties: To devote his entire time to the duties and interest of the city;

R. Delegated duties: To perform such other duties and exercise such other powers as may be delegated by ordinance or motion of the city council;

S. Political activity: The city manager shall not participate in any city political activities or politics;

T. Contracts: To execute on behalf of the city and without city council approval, contracts in the amount of five thousand dollars or less. Except in emergencies, all contracts exceeding five thousand dollars shall be approved by city council action. No contract shall be split into smaller purchase orders or segments to avoid the provisions of this subsection or the requirements of Chapter 3.20 of this code. (Ord. 1506 § 1, 1991; prior code § 2-25)

2.12.070 Council to deal exclusively through city manager.

Except for the purpose of inquiry, the city council and its members shall deal with the administrative services solely through the city manager, and neither the city council nor any member thereof shall give orders to any of the subordinates of the city manager. (Prior code § 2-26)

2.12.080 Compensation.

The city manager shall receive such salary as the city council shall from time to time determine and fix by resolution or motion. (Prior code § 2-27)

2.12.090

2.12.090 Approval of claims and
 demands.

No claim or demand shall be audited

or allowed by the council which is not approved by the city manager. (Prior code § 2-28)

2.12.100 Subordinate appointment or removal.

Neither the council nor any of its members shall demand the appointment of any person to, or exercise their influence in the appointment of any person, or his removal from office by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administration service of the city other than by suggestions to the city manager. The council nor any member thereof shall not give orders to any subordinates of the city manager either publicly or privately. (Prior code § 2-29)

2.12.110 Legislative powers of council—Library jurisdiction

A. There is retained to the city council the sole power of being the policy making and legislative body for the city, and the duties and powers of the city manager are expressly confined to the administration service of the city.

B. The city manager shall have no power to administer the affairs of the city library nor shall he have any control or direction over the board of trustees or the library. (Prior code § 2-30)

2.12.120 Disposition of surplus personal property.

A. The city manager may, upon recommendation of the city purchasing officer, authorize the sale of surplus personal property having a value of two

thousand dollars or less, which is no longer required for city use. Within thirty days following the sale of any surplus city property under this section, the city manager shall notify the city council in writing of such sale.

B. Prior to sale of property under this section, the city manager shall notify all departments of its availability for city use.

C. The following procedures shall be used to dispose of surplus city property under this section:

1. The property to be sold shall be advertised by publication at least one time in a newspaper of general circulation or in a magazine or periodical generally distributed to municipalities, and sealed bids solicited. The manner of advertising and processing of bids shall be consistent with practices employed for other city transactions requiring bids.

2. If the procedures specified in subsection 1 of this section produce no bids, or bids of less than a reasonable sale price, all bids may be rejected by the city manager, and offers in any form may be solicited and accepted without further competitive procedures.

3. If no satisfactory bids or offers are received under subsections 1 or 2 of this section, such surplus property may be sold by auction or delivered to a broker for consignment sale.

4. Surplus property having a total value of less than one hundred dollars, as determined by the city purchasing officer, may be sold without compliance with the advertising and sealed bid requirements of subsection 1 of this section. (Ord. 1474 § 1, 1990)



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ANTHONY B. MANZANETTI

Mr. Manzanetti, a shareholder in the firm, represents public and private clients in a wide range of legal matters. He serves as the City Attorney for the City of Elk Grove and general counsel for the Elk Grove-Cosumnes Cemetery District and supports several other public agencies. His diverse legal knowledge and general litigation experience allow him to represent and advise his clients on several fronts, including business transactions, real estate dealings and construction contracts. In counseling his clients, Mr. Manzanetti focuses on providing practical solutions to legal difficulties. Moreover, he guides his public agency clients toward a more business-oriented approach to governance, such that they adopt the mindset of a service industry committed to meeting customer demands.

LEGAL EXPERIENCE

In practice since 1985, Mr. Manzanetti provides his public and private clients breadth and depth in several legal areas. For the public sector, his emphasis is on representation and litigation support on the many issues impacting local governance. Some of the specific matters that Mr. Manzanetti advises his clients on include:

- Land use issues
- Zoning and ordinance compliance
- Compliance with and litigation matters pertaining to public records and open meeting laws
- Code enforcement
- Local Agency Formation Commission (LAFCO) issues
- Power-sharing between municipal and county governments
- Property condemnation
- First Amendment issues
- Insurance coverage disputes
- Construction litigation
- Low-income housing litigation
- Intellectual property issues
- Telecommunications matters
- Privacy matters
- Health and safety issues

He also advises businesses and public entities on litigation avoidance and advance strategic planning for inevitable litigation. In the area of business law, Mr. Manzanetti represents clients in matters relating to:

- Contract drafting, analysis and advisement
- Formation of corporations and partnerships
- Lease creation, analysis, and negotiation

Continued



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- Real estate transactions
- Probate and estates
- Transactional and direct business representation

An experienced litigator, he has represented clients before state and federal trial and appellate courts and is admitted to practice before the following courts:

- United States Supreme Court
- Supreme Court and all trial and appellate courts of the State of California
- United States Court of Appeals for the Ninth Circuit
- United States District Court, Eastern and Northern Districts of California

PRACTICE EXAMPLES

- Mr. Manzanetti was instrumental in the incorporation of the City of Elk Grove. As co-chair of the Incorporation Committee, he was intimately involved in the legal and regulatory matters surrounding incorporation.
- In his daily practice, Mr. Manzanetti often draws upon his in-depth knowledge of various laws impacting local governance. For example, Mr. Manzanetti successfully represented the City of Eureka and the City of West Sacramento against charges of violating the Brown Act. In a related matter, he testified before the California State Assembly local government committee regarding proposed changes to the Brown Act.
- During the many years that Mr. Manzanetti represented the City of West Sacramento, he made substantial contributions to public policy. For example, he defended the City against a triple attack on its adult entertainment ordinance and was instrumental in helping the City draft a refined ordinance designed to navigate the narrow constitutional path that the United States Supreme Court has laid down for these particular land uses.

PROFESSIONAL ACTIVITIES & AFFILIATIONS

Mr. Manzanetti's professional activities and affiliations include:

- Member, Sacramento County Bar Association
- Member, American Bar Association
- Member, League of California Cities
- Presenter, League of California Cities—City Attorney's Department 2003 Spring Conference, "*First Amendment Issues: Solicitation Ordinances*"
- Presenter, LORMAN Educational Services, "*What You Need to Know: Public Records and Open Meetings*"
- Author, "The Fifth Amendment as a Limitation on the Public Trust Doctrine in Water Law," *Pacific Law Journal*, Vol.14 (1985)



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Other current and past community activities and affiliations include:

- President, Elk Grove Community Foundation
- Member, Board of Directors, Cosumnes River Basketball Youth League
- Member, Finance Committee, Elk Grove Unified School District
- Member, Elk Grove Rotary Club
- Member, Harry S. Truman Club
- Former member, Board of Directors, Elk Grove Chamber of Commerce
- Former member, Elk Grove Laguna Civic League
- Former member, Board of Directors, Cosumnes River College Foundation
- Former member, Elk Grove Planning Advisory Committee (EG PAC)
- Former member, Board of Directors, Capitol City Ballet

ACADEMIC BACKGROUND

B.A. University of Northern Colorado, 1977

J.D. University of the Pacific, McGeorge School of Law, 1985

- *Member, Order of the Barristers*
- *Assistant Editor, Pacific Law Journal*

Different Forms of Local Government

The typical types of local governments in the U.S. include council-manager, mayor-council, strong mayor, and commission. The characteristics of each are highlighted below.

Council-Manager.

This form of government has a City Council elected by popular vote. The City Council is responsible for policymaking only, while the operation and management of the organization is under the direction of a city manager. The council appoints and removes the manager by majority vote. The mayor is a member of the council that usually serves at the pleasure of the City Council and serves as the "chairperson" of the council meetings, but has no special veto or administrative powers. The mayor may represent the city at ceremonies, as well as civic and social functions.

Mayor-Council.

This form has a legislative body that is elected either at-large, by ward or district, or by some combination of the two (e.g., some at-large and other by district). The distinguishing characteristics of this plan are two... One, the mayor is elected separately, and two, the official designation of the Office of Mayor is the formal head of the city government. Depending upon local laws, the powers of the mayor may vary greatly, from limited ceremonial duties to full-scale authority to appoint and remove department managers. The mayor sometimes has veto power over the city council.

Strong Mayor.

In many large cities of America, the mayor is elected to lead the city. This typically includes running the municipal organization through city employees, with the top management being selected by the mayor. A good political leader is sometimes not a good municipal administrator. Hiring trained administrators has served to overcome this shortcoming.

Commission.

This form of government, which usually employs non-partisan, at-large elections, includes a board of commissioners. Collectively they act as the legislative body. Individually, each commissioner serves as the head of one or more departments. The municipal reform movement in the U.S. has all but led to the demise of this type of local government. Its weaknesses are obvious, since few elected leaders possess the necessary requirements to operate large portions of a municipal organization.

The Council-Manager Form of Government:

Frequently Asked Questions

Q: What is the council manager form of local government?

A: The council manager form is the system of local government that combines the strong *political* leadership of elected officials in the form of a council or other governing body, with the strong *operational* and *managerial* experience of an appointed local government manager. The form establishes a representative system where all power is concentrated in the elected council and where the council hires a professionally trained manager to oversee the delivery of public services.

Q: What is the council's function?

A: The council is the legislative body of the local government. Its members are the community's policy makers. Power is centralized in the elected council that sets policy for the community, i.e., the budget, the tax rate, etc. The council also focuses on the community's goals, major projects, and such long term considerations as community growth, land use development, capital improvement plans, capital financing, and strategic planning.

The council hires a professional manager to operate and manage the city and to carry out the policy directives of the City Council. The City Council hires the manager and supervises the manager's performance.

Q: What is the manager's function?

A: The manager is one of only two¹ city employees hired and fired by the City Council. The city manager is hired to serve the city council and the city to implement the city council's policies using his/her training and experience in administering local government projects and programs on behalf of the governing body. The manager prepares a budget for the council's consideration; recruits, hires, and supervises the government's staff; serves as the council's chief adviser; and carries out the council's policies. Council members and citizens count on the manager to provide complete and objective information, pros and cons of alternatives, and long term consequences.

The manager can be fired by a majority of the council, consistent with local laws, ordinances, or employment agreements the manager may have with the council.

¹ Typically the only other city employee hired and fired by the City Council is the City Attorney. Local ordinance or city charter may add other employees to the list of employees hired by the City Council. In California, there are examples where the city charter dictates that the city attorney is hired by the city manager. All other employees are hired and fired by and report only to the city manager.

The Council-Manager Form of Government:

Q: Does the manager participate in policy determination?

A: The manager makes policy recommendations to the council, but the council may or may not adopt them and may modify the recommendations. The manager is bound by whatever action the council takes.

Q: Does the city council participate in the day-to-day operation of the city?

A: The manager is responsible for the implementation of the council's policy determinations and the day-to-day running of the city. The city council is the legislative branch of the local government. The city manager is the head of the executive branch of the local government. If the city council is not satisfied with the manager's running of the city, the city council should fire the city manager and hire another.

Q: Where does the mayor fit in?

A: Mayors in council manager communities (or chairpersons in counties) are key political leaders and policy developers. In the case of the council, the mayor is responsible for soliciting citizen views in forming these policies and interpreting them to the public. The mayor presides at council meetings, serves as a spokesperson for the community, facilitates communication and understanding between elected and appointed officials, assists the council in setting goals and advocating policy decisions, and serves as a promoter and defender of the community. In addition, the mayor serves as a key representative in intergovernmental relations. The mayor, council, and manager constitute a policy development and management team.

Q: What is the history of the council manager form?

A: Born out of the turn of the century progressive reform movement, the council manager system of local government is one of the few original American contributions to political theory. In 1908, Staunton, Virginia instituted the first position legally defining, by ordinance, the broad authority and responsibility associated with today's professional local government manager. Sumter, South Carolina, was the first city to adopt a charter incorporating the basic principles of council manager government in 1912. Westmount, Quebec, introduced the form to Canada in 1913. The first large city to adopt the plan was Dayton, Ohio, in 1914. The first counties to adopt it in the 1930s were Arlington County, Virginia, and Durham County and Robeson County, North Carolina.

Since its establishment, the council manager form has become the most popular form of government in the United States in communities with populations of 5,000 or greater. The form also is popular in Canada, Australia, the Netherlands, New Zealand, the United Kingdom, and Honduras, Chile, and Brazil. For more than 85 years, council manager government has responded to the changing needs of citizens and their communities.

Dimensions of the governmental process

Illustrative tasks for council

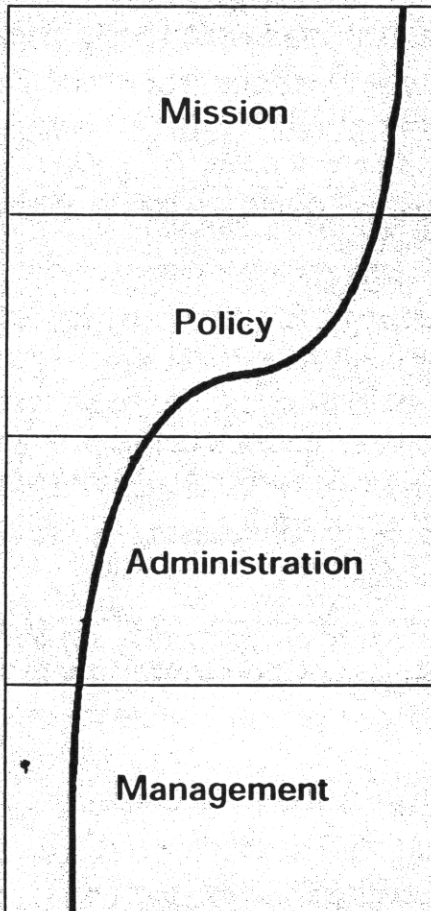
Determine "purpose," scope of services, tax level, constitutional issues

Pass ordinances; approve new projects and programs; ratify budget

Make implementing decisions (e.g., site selection); handle complaints; oversee administration

Suggest management changes to manager; review organizational performance in manager's appraisal

Elected officials' sphere



Appointed official's sphere

Illustrative tasks for administrators

Advise (what city "can" do may influence what it "should" do); analyze conditions and trends

Make recommendations on all decisions; formulate budget; determine service distribution formulae

Establish practices and procedures and make decisions for implementing policy

Control the human, material, and informational resources of organization to support policy and administrative functions

The curved line suggests the division between the elected officials' and the appointed official's spheres of activity, with the council to the *left* and the manager to the *right* of the line. The division represented is intended to roughly approximate a "proper" degree of separation and sharing. Shifts to either the left or right would indicate improper incursions.

Source: Reprinted with minor editing from James H. Svara, "Dichotomy and Duality: Reconceptualizing the Relationship between Policy and Administration in Council-Manager Cities," *Public Administration Review* 45 (1985): 228. Used with permission of the American Society for Public Administration.